

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

GAVRIEL GREEN, an individual,

Plaintiff,

v.

VOLCANO HARLEY-DAVIDSON, a for-profit corporation; **HARLEY-DAVIDSON FINANCIAL SERVICES, INC.**, a for-profit corporation,

Defendants.

Case No. 3:24-cv-1509-SB

ORDER

Michael H. Simon, District Judge.

Plaintiff Gavriel Green, representing himself, sued Volcano Harley-Davidson and Harley-Davidson Financial Services, alleging breach of contract, conversion, fraud, breach of fiduciary duty, deceptive pricing practices, infliction of emotional distress, and various claims under the Uniform Commercial Code. He sought one billion dollars in damages. United States Magistrate Judge Stacie Beckerman issued Findings and Recommendation in this case on December 23, 2024. Judge Beckerman recommended that the Court dismiss in part Plaintiff's complaint. On January 23, 2025, the Court adopted Judge Beckerman's Findings and Recommendation. The Court dismissed all claims except Green's claim for common law fraud against Volcano Harley-Davidson and granted Green leave to file an amended complaint. On

February 12, 2025, Green filed a first amended complaint. On March 12th, Judge Beckerman issued another Findings and Recommendation. Judge Beckerman recommended that the Court allow Green's breach of contract, breach of duty of good faith and fair dealing, conversion, and fraud claims against Volcano Harley-Davidson, and dismiss with prejudice all other claims.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that "[w]hen no timely objection is filed," the Court reviews the magistrate judge's recommendations for "clear error on the face of the record."

Plaintiff timely filed objections to Judge Beckerman's Findings and Recommendation. The Court has reviewed *de novo* those portions of Judge Beckerman's Findings and Recommendation to which Plaintiff has objected. The Court agrees with Judge Beckerman's reasoning and adopts those portions of the Findings and Recommendation. For those portions of Judge Beckerman's Findings and Recommendation to which Plaintiff has not objected, the Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge Beckerman's Findings and Recommendation, ECF 12. Plaintiff may proceed only against Volcano Harley-Davidson and only on Plaintiff's claims of breach of contract, breach of duty of good faith and fair dealing, conversion, and fraud. The Court dismisses with prejudice all other claims asserted by Plaintiff.

IT IS SO ORDERED.

DATED this 1st day of April, 2025.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge